

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION


SAMUEL T. RUSS	§	
	§	
V.	§	CIVIL ACTION NO. G-09-224
	§	
FIDELITY NATIONAL INSURANCE	§	
COMPANY	§	

OPINION AND ORDER

It is well-settled and beyond peradventure that Plaintiff is not entitled to a jury trial under either the Seventh Amendment, Lehman v. Nakshian, 453 U.S. 156, 160 (1981), or the National Flood Insurance Act, Sandia Oil Co., Inc. v. Beckton, Director FEMA, 889 F.2d 258, 262 (10th Cir. 1989), in a claims handling dispute against a WYO carrier with the National Flood Insurance Program acting in its capacity as a fiscal agent of the United States and the equivalent of FEMA itself, Van Holt v. Liberty Mutual Ins. Co., 163 F.3d 161, 166 (3^d Cir. 1998).

It is, therefore, **ORDERED** that the Plaintiff's jury demand, insofar as it seeks a jury trial against Fidelity National Insurance Company, is **VACATED**.

DONE at Galveston, Texas, this 16th day of March, 2011.



John R. Froeschner
United States Magistrate Judge